

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In re:) Case No. 08-35653-KRH
Circuit City Stores, Inc.,) Chapter 11
)
Debtor.)
)

NOTICE OF TRANSFER OF CLAIM OTHER THAN FOR SECURITY

Pursuant to FED.R.BANKR.PROC. 3001(e)(2), notice is hereby given that all claims filed by JWC/Loftus, LLC in the above captioned case were unconditionally transferred other than for security to CFH Investments III, LLC, a Colorado limited liability company, on April 21, 2010, for consideration received. JWC/Loftus, LLC transferred the following claims:

Claim No.	Amount
4162	\$206,352.78
3982	\$206,352.78
12689	\$895,115.74
13709	Unliquidated
13771	Unliquidated
12688	\$895,115.74
13851	Unliquidated
13710	Unliquidated

The undersigned hereby submits this Notice as evidence of the transfer pursuant to FED.R.BANKR.PROC. 3001(e)(2) of all rights, title and interest in and to the claims originally held by JWC/Loftus, LLC to CFH Investments III, LLC. The Clerk of the Court and claims agent Kurtzman Carson Consultants, LLC are each authorized to

DOUGLAS A. SCOTT, PLC
1805 Monument Avenue, Suite 311
Richmond, Virginia 23220
Counsel to CFH Investments III, LLC

change the address on Claims Nos. 4162, 3982, 12689, 13709, 13771, 12688, 13851 and 13710 by Transferor to that of the Transferee listed below.

NOTICE ADDRESSES:

1. If to Transferee:

CFH Investments III, LLC
2595 Canyon Blvd. #420
Boulder, Colorado 80302

2. If to Transferor:

JWC/Loftus, LLC
c/o Philip C. Baxa, Esq.
Mercer Trigiani LLP
16 South Second Street
Richmond, Virginia 23219

Date: May 26, 2010

\s\ Douglas Scott
Douglas Scott, VSB No. 28211
DOUGLAS A. SCOTT, PLC
Suite 311, 1805 Monument Avenue
Richmond, Virginia 23220
 804.257.9860

/s/ Elizabeth K. Flaagan
Elizabeth K. Flaagan, #22604
Faegre & Benson LLP
3200 Wells Fargo Center
1700 Lincoln Street
Denver, CO 80203-4532
Phone: (303) 607-3694
Facsimile: (303) 607-3600
Email: eflaagan@faegre.com

Counsel for CFH Investments III, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of May, 2010, I caused a copy of the foregoing to be served via electronic means to the parties on the Court's CM/ECF system.

\s\ Douglas Scott

UNITED STATES BANKRUPTCY COURT <u>EASTERN</u> DISTRICT OF <u>VIRGINIA</u>		PROOF OF CLAIM
Name of Debtor: <u>Circuit City Stores West Coast, Inc.</u>		Case Number: <u>08-35654</u>
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): <u>JWC/Loftus, LLC</u>		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.
Name and address where notices should be sent: <u>Philip C. Baxa, Esquire</u> <u>MercerTrigiani LLP, 16 South Second Street, Richmond, VA 23235</u>		Court Claim Number: _____ <i>(If known)</i>
Telephone number: <u>(804) 782-8691</u>		Filed on: _____
Name and address where payment should be sent (if different from above): <u>Same as above</u>		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
COPY		<input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
Telephone number:		
1. Amount of Claim as of Date Case Filed: <u>\$ 206,352.78</u>		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.
If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.		Specify the priority of the claim.
If all or part of your claim is entitled to priority, complete item 5.		<input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).
<input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		<input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).
2. Basis for Claim: <u>Lease Agreement</u> <i>(See instruction #2 on reverse side.)</i>		<input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).
3. Last four digits of any number by which creditor identifies debtor: _____		<input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).
3a. Debtor may have scheduled account as: _____ <i>(See instruction #3a on reverse side.)</i>		<input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.		<input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)_____. Amount entitled to priority: <u>_____</u>
Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____		*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
Value of Property: \$ _____ Annual Interest Rate: %		
Amount of arrearage and other charges as of time case filed included in secured claim,		
if any: \$ _____ Basis for perfection: _____		
Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. <i>(See definition of "redacted" on reverse side.)</i>		
DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.		
If the documents are not available, please explain: _____		
Date: <u>1/ 16 /2009</u>	Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.	
<i>/s/ Philip C. Baxa, Attorney for Creditor</i>		RECEIVED JAN 19 2009 HURTZMAN CARSON CONSULTANTS

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

IN RE: CIRCUIT CITY STORES, INC.
CONSOLIDATED CASE NO. 08-35654
UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

ATTACHMENT TO PROOF OF CLAIM OF JWC/LOFTUS, LLC

JWC/Loftus is a creditor ("Landlord") of Circuit City Stores West Coast, Inc., the Debtor in Case No. 08-35654 ("the Debtor"). Landlord is the landlord of the premises located at 26th Street, Walnut Drive, 28th Street and Pearl Street, referred to as the 28th and Pearl Retail Center in Boulder, Colorado ("the Premises"), pursuant to a lease dated November 1997, as amended, ("the Lease") between Landlord and the Debtor. Landlord asserts that Debtor is indebted to Landlord in the following amounts for pre-petition obligations:

November Base Rent	\$ 58,880.47
November CAM	\$ 2,636.84
Debtor's share of real	
Property Taxes	<u>\$144,825.47</u>
	\$206,352.78

However, Landlord reserves its position that certain of the amounts listed above are Administrative Claims under the U.S. Bankruptcy Code, and that it is entitled to file a request for payment of an Administrative Claim for these items, including:

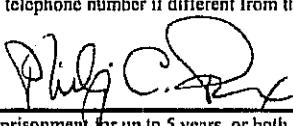
Prorated rent for November (after 11/10/08 petition date) :	\$38,861.11
Prorated CAM for November (after 11/10/08 petition date) :	\$ 1,740.31
Taxes (portion attributable to period after 11/10/08) :	<u>\$20,690.78</u>
	\$61,292.20

In the event that these amounts, or any portion thereof, are determined to be Administrative Claims, then Landlord would recognize the appropriate credit to its prepetition claim numbers set forth above. Landlord reserves all of its rights and remedies under the Lease

and applicable law.

Landlord has not attached a copy of the Lease, which is voluminous. Landlord shall provide a copy of the Lease upon reasonable request.

R0007802

UNITED STATES BANKRUPTCY COURT <u>EASTERN</u> DISTRICT OF <u>VIRGINIA</u>		PROOF OF CLAIM
Name of Debtor: <u>Circuit City Stores West Coast, Inc.</u>		Case Number: <u>08-35654</u>
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): <u>JWC/Loftus, LLC</u>		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.
Name and address where notices should be sent: <u>Philip C. Baxa, Esquire</u> <u>MercerTrigiani LLP, 16 South Second Street, Richmond, VA 23235</u>		Court Claim Number: _____ <i>(If known)</i>
Telephone number: <u>(804) 782-8691</u>		Filed on: _____
Name and address where payment should be sent (if different from above): <u>Same as above</u>		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
COPY		<input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
Telephone number:		
1. Amount of Claim as of Date Case Filed: <u>\$ 206,352.78</u>		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.
If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.		Specify the priority of the claim.
If all or part of your claim is entitled to priority, complete item 5.		<input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).
<input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		<input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).
2. Basis for Claim: <u>Lease Agreement</u> <i>(See instruction #2 on reverse side.)</i>		<input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).
3. Last four digits of any number by which creditor identifies debtor: _____		<input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).
3a. Debtor may have scheduled account as: _____ <i>(See instruction #3a on reverse side.)</i>		<input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.		<input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)_____. Amount entitled to priority: <u>_____</u>
Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ _____ Annual Interest Rate ____ %		*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____		
Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. <i>(See definition of "redacted" on reverse side.)</i>		
DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.		
If the documents are not available, please explain:		
Date: <u>1/ 16 /2009</u>	Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.	
/s/ Philip C. Baxa, Attorney for Creditor		 FOR CONFIRMATION ONLY RECEIVED JAN 19 2009 HURTZMAN CARSON CONSULTANTS

Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

IN RE: CIRCUIT CITY STORES, INC.
CONSOLIDATED CASE NO. 08-35654
UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

ATTACHMENT TO PROOF OF CLAIM OF JWC/LOFTUS, LLC

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November Base Rent	\$ 58,880.47
November CAM	\$ 2,636.84
Debtor's share of real	
Property Taxes	<u>\$144,825.47</u>
	\$206,352.78

However, Landlord reserves its position that certain of the amounts listed above are Administrative Claims under the U.S. Bankruptcy Code, and that it is entitled to file a request for payment of an Administrative Claim for these items, including:

Prorated rent for November (after 11/10/08 petition date) :	\$38,861.11
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Taxes (portion attributable to period after 11/10/08) :	<u>\$20,690.78</u>
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In the event that these amounts, or any portion thereof, are determined to be Administrative Claims, then Landlord would recognize the appropriate credit to its prepetition claim numbers set forth above. Landlord reserves all of its rights and remedies under the Lease

and applicable law.

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R0007802

COPY

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

In re:)
CIRCUIT CITY STORES, INC., et al,) Case No. 08-35653-KRH
Debtors.) Chapter 11
) Jointly Administered

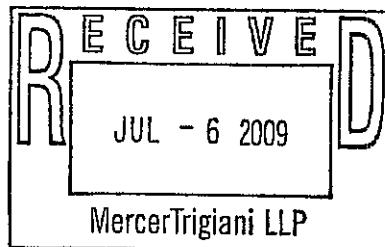
**PROOF OF CLAIM FOR ADMINISTRATIVE EXPENSES AND APPLICATION
FOR AN ORDER GRANTING ADMINISTRATIVE EXPENSE CLAIM AGAINST
CIRCUIT CITY STORES, INC. AND CIRCUIT CITY STORES WEST, INC.**

JWC/Loftus, LLC ("Loftus"), by and through its undersigned counsel, submits this Proof of Claim for Administrative Expenses, and hereby moves and applies for the entry of an Order determining that it has an Administrative Expense Claim, and compelling Circuit City Stores, Inc. and Circuit City Stores West Coast, Inc. to pay such claim ("the Application"). In support of this Application, Loftus respectfully states as follows:

Background

1. On November 10, 2008, Circuit City Stores, Inc. and related companies filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code.
2. Loftus is the landlord and lessor under a Lease Agreement ("Lease") with Circuit City Stores West Coast, Inc. ("the Lessee"), one of the debtors in this matter, for certain real property and improvements located at 2600 Pearl Street in Boulder, Colorado ("the Premises") (Store No. 3348).

Philip C. Baxa VSB No. 22977
MERCERTRIGIANI LLP
16 South Second Street
Richmond, VA 23219
Tel: 804-782-8691
Fax: 804-644-0209
Phil.baxa@mercertrigiani.com



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3. Debtor Circuit City Stores, Inc. ("the Debtor") is the guarantor of the Lease. This Application pertains to the Debtor and to the Lessee, and is submitted in the bankruptcy cases of both the Debtor and the Lessee.
4. The Lessee remained in possession of the Premises, and enjoyed the use and occupancy of the Premises, from the filing of the petitions through and including March 11, 2009, the effective date of the Lease rejection. The Lessee paid administrative rent to Loftus due under the Lease for the months of December 2008, January 2009, February 2009 and a portion of March 2009, but has failed to pay administrative rent and other matters for the month of November 2008. The Debtor has also failed to pay certain real estate property taxes, common area maintenance charges ("CAM") and other charges which accrued from the filing of the petitions through the effective date of the rejection of the Lease which amounts are also administrative expenses. The Debtor also damaged the Premises and failed to perform its obligations regarding the Premises and the surrender of the Premises, resulting in additional administrative costs and expenses.

Relief Requested

5. Loftus respectfully requests that the Court enter an Order determining that the following items, totaling \$ 215,979.12, are entitled to treatment as administrative expenses under 11 U.S.C. § 503(b):

- a. Base Rent under the Lease for the period November 10, 2008 through November 30, 2008 ("November Rent") in the amount of \$38,861.11;
- b. Prorated CAM for November 2008 in the amount of \$1,740.31;
- c. Property taxes as provided in the Lease for 2008 in the amount of \$144,825.47, which became due under the Lease after the filing of the petitions herein; and

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8. The present matter represents the circumstances that Congress intended § 365(d)(3) of the Bankruptcy Code to address. The Debtor occupied and possessed the Premises post-petition, without performing all of its post-petition obligations under the Lease.
9. Courts have held overwhelmingly that a landlord is entitled to payment of post-petition, pre-rejection rental payments, pursuant to 11 U.S.C. § 365(d)(3). See In re: Best Products Company, Inc., 206 B.R. 404 (Bankr. E.D. Va. 1997). See also In re: Pudgie's Div. of New York, Inc., 202 B.R. 832 (Barue S.D.N.Y. 1996); and In re: Wingspread Corp., 178 B.R. 305 (Bankr. D. Mass. 1995). Accordingly, the Court should enter an order that determines the claim for Post-Petition rent and related amounts as an administrative claim, and compels the Debtor to pay the Post-Petition Rent and related amounts.
10. Additionally, pursuant to the terms of the Lease, the Debtor is obligated to reimburse Loftus for the reasonable attorneys' fees and costs incurred by Loftus in connection with the Debtor's compliance under the terms of the Lease. Accordingly, Loftus respectfully requests that the Debtor be directed to pay the attorneys' fees and costs incurred by Loftus in connection with the filing and prosecution of this Motion.
11. The documents that support this Application are voluminous, and copies will be furnished upon request. Loftus reserves its rights with respect to other charges and amounts which have accrued, or may accrue, under the Lease. Additionally, this Application does not pertain to other claims asserted by Loftus, including those for pre-petition amounts and Lease rejection claims.

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WHEREFORE, Loftus respectfully requests this Application be deemed allowed, and that this Court enter an Order that compels the Debtor and the Lessee, jointly and severally, to pay Loftus as an Administrative Expense Claim the amount of \$230,363.60 for the amounts set forth above for Post-Petition Rent, CAM, taxes and other charges; plus demolition and repair expenses; plus utilities; plus Loftus' reasonable attorneys' fees and costs in an amount of no less than \$6,737.85; plus any further post-petition amounts that are or become due, Loftus further asks the Court to grant Loftus such other and further relief as this Court deems proper and equitable.

Date: June 15, 2009

JWC/LOFTUS, LLC


By: /s/ Philip C. Baxa
Of Counsel

Philip C. Baxa VSB No. 22977
MERCERTRIGIANI LLP
16 South Second Street
Richmond, Virginia 23219
Tel: 804-782-8691
Fax: 804-644-0209
phil.baxa@mercertrigiani.com
Counsel for JWC/Loftus, LLC

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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

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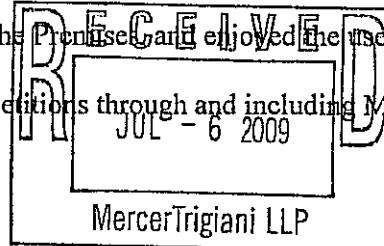
In re:)
)
CIRCUIT CITY STORES WEST COAST, INC.) Case No. 08-35654-KRH
) Chapter 11
Debtors.) Jointly Administered
)

**PROOF OF CLAIM FOR ADMINISTRATIVE EXPENSES AND APPLICATION
FOR AN ORDER GRANTING ADMINISTRATIVE EXPENSE CLAIM AGAINST
CIRCUIT CITY STORES, INC. AND CIRCUIT CITY STORES WEST, INC.**

JWC/Loftus, LLC ("Loftus"), by and through its undersigned counsel, submits this Proof of Claim for Administrative Expenses, and hereby moves and applies for the entry of an Order determining that it has an Administrative Expense Claim, and compelling Circuit City Stores, Inc. and Circuit City Stores West Coast, Inc. to pay such claim ("the Application"). In support of this Application, Loftus respectfully states as follows:

Background

1. On November 10, 2008, Circuit City Stores, Inc. and related companies filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code.
2. Loftus is the landlord and lessor under a Lease Agreement ("Lease") with Circuit City Stores West Coast, Inc. ("the Lessee"), one of the debtors in this matter, for certain real property and improvements located at 2600 Pearl Street in Boulder, Colorado ("the Premises") (Store No. 3348).
3. Debtor Circuit City Stores, Inc. ("the Debtor") is the guarantor of the Lease. This Application pertains to the Debtor and to the Lessee, and is submitted in the bankruptcy cases of both the Debtor and the Lessee.
4. The Lessee remained in possession of the Premises and enjoyed the use and occupancy of the Premises, from the filing of the petitions through and including March 11, 2009.



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the effective date of the Lease rejection. The Lessee paid administrative rent to Loftus due under the Lease for the months of December 2008, January 2009, February 2009 and a portion of March 2009, but has failed to pay administrative rent and other matters for the month of November 2008. The Debtor has also failed to pay certain real estate property taxes, common area maintenance charges (“CAM”) and other charges which accrued from the filing of the petitions through the effective date of the rejection of the Lease which amounts are also administrative expenses. The Debtor also damaged the Premises and failed to perform its obligations regarding the Premises and the surrender of the Premises, resulting in additional administrative costs and expenses.

Relief Requested

5. Loftus respectfully requests that the Court enter an Order determining that the following items, totaling \$ 215,979.12, are entitled to treatment as administrative expenses under 11 U.S.C. § 503(b):
 - a. Base Rent under the Lease for the period November 10, 2008 through November 30, 2008 (“November Rent”) in the amount of \$38,861.11;
 - b. Prorated CAM for November 2008 in the amount of \$1,740.31;
 - c. Property taxes as provided in the Lease for 2008 in the amount of \$144,825.47, which became due under the Lease after the filing of the petitions herein; and
 - d. Prorated property taxes as provided in the Lease for January 1, 2009 through March 11, 2009, in the amount of \$30,552.23.
6. Additionally, Loftus seeks payment as administrative expenses certain costs and expenses related to demolition and repair of the Premises which were incurred to address conditions which existed at the time the Premises were surrendered by the Lessee. These amounts are recoverable as administrative expenses, based upon the Lessee’s failure to

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KURTZMAN CARSON CONSULTANTS

comply with the terms of the Lease in the surrender of the Premises, including the following:

a. Buffalo Lighting	\$ 2,071.47
b. Colorado Demolition/	
Trash Removal	\$ 5,600.00
c. AMI Mechanical Systems	\$ 4,846.00
d. Signage Removal	\$ 1,160.00
e. City of Boulder - Water	\$ 291.76
f. Full Spectra Maintenance	\$ 185.00
g. Waste Farmers	\$ 230.25
TOTAL	\$14,384.48

7. Section 365(d)(3) of the Bankruptcy Code states that the Debtor must "timely perform all the obligations of the debtor... arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected." In enacting section 365(d)(3) of the Bankruptcy Code, Congress intended to address the plight of landlords who, unlike professionals and other providers of goods and services to a debtor-in-possession in the ordinary course of business, are compelled to extend credit to the debtor. 130 Cong. Rec. S8894-95 (daily ed. June 29, 1984) (remarks of Sen. Hatch).

8. The present matter represents the circumstances that Congress intended § 365(d)(3) of the Bankruptcy Code to address. The Debtor occupied and possessed the Premises post-petition, without performing all of its post-petition obligations under the Lease.

9. Courts have held overwhelmingly that a landlord is entitled to payment of post-petition, pre-rejection rental payments, pursuant to 11 U.S.C. § 365(d)(3). See In re: Best Products Company, Inc., 206 B.R. 404 (Bankr. E.D. Va. 1997). See also In re: Pudgie's Div. of New York, Inc., 202 B.R. 832 (Barue S.D.N.Y. 1996); and In re: Wingspread Corp., 178 B.R. 305 (Bankr. D. Mass. 1995). Accordingly, the Court should enter an order that determines the claim for Post-Petition rent and related amounts as an

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KURTZMAN CARSON CONSULTANT

Philip C. Baxa VSB No. 22977
MERCERTRIGIANI LLP
16 South Second Street
Richmond, Virginia 23219
Tel: 804-782-8691
Fax: 804-644-0209
phil.baxa@mercertrigiani.com
Counsel for JWC/Loftus, LLC

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 15th day of June, 2009, a copy of the Application of JWC/Loftus, LLC was sent by overnight delivery to Circuit City Claim Processing Center, C/o Kurtzman Carson Consultants, LLC, 2335 Alaska Avenue, El Segundo, CA 90245 and was sent by First Class Mail (postage prepaid) to the following:

Greg M. Galardi
Skadden, Arps, Slate, Meagher & Flom
One Rodney Square
P.O. Box 636
Wilmington, DE 19899-0636

Lynn L. Tavenner
Tavenner & Beran, PLC
20 North Eighth Street
Second Floor
Richmond, VA 23219

Robert Van Arsdale
Office of the United States Trustee
701 East Broad Street, Suite 4304
Richmond, VA 23219

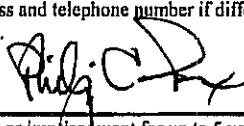
Brad R. Godshell
Pachulski Stang Ziehl & Jones
10100 Santa Monica Boulevard, 11th Floor
Los Angeles, CA 90067-4100

Dion W. Hayes
McGuire Woods, LLP
One James Center
901 East Cary Street
Richmond, VA 23219

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/s/ Philip C. Baxa

UNITED STATES BANKRUPTCY COURT <u>EASTERN</u> DISTRICT OF <u>VIRGINIA</u>		PROOF OF CLAIM
Name of Debtor: <u>Circuit City Stores, Inc.</u>		Case Number: <u>08-35653</u>
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): <u>JWC/Loftus, LLC</u>		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.
Name and address where notices should be sent: <u>Philip C. Baxa, Esquire</u> <u>MERCERTRIGIANI LLP, 16 South Second Street, Richmond, VA 23235</u>		Court Claim Number: _____ <i>(If known)</i>
Telephone number: <u>(804) 782-8691</u>		Filed on: _____
Name and address where payment should be sent (if different from above): <u>Same as above</u>		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
Telephone number:		<input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
1. Amount of Claim as of Date Case Filed: <u>\$ 895115.74</u>		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.
If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.		Specify the priority of the claim.
If all or part of your claim is entitled to priority, complete item 5.		<input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B).
<input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		<input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).
2. Basis for Claim: <u>Lease Rejection Claim</u> <i>(See instruction #2 on reverse side.)</i>		<input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5).
3. Last four digits of any number by which creditor identifies debtor: _____		<input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7).
3a. Debtor may have scheduled account as: _____ <i>(See instruction #3a on reverse side.)</i>		<input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8).
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.		<input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a) _____
Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____		Amount entitled to priority: <u>\$ _____</u>
Value of Property: \$ _____ Annual Interest Rate: %		*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____		
Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. <i>(See definition of "redacted" on reverse side.)</i>		
DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.		
If the documents are not available, please explain: _____		
Date: <u>4/29/2009</u>	Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. <u>Philip C. Baxa, Attorney for Creditor</u> 	
		FOR COURT USE ONLY RECEIVED APR 30 2009

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

**IN RE: CIRCUIT CITY STORES, INC.
CASE NO. 08-35653**

**IN RE: CIRCUIT CITY STORES WEST COAST, INC.
CASE NO. 08-35654**

**ATTACHMENT TO PROOF OF CLAIM OF
JWC/LOFTUS, LLC
LEASE REJECTION DAMAGES CLAIM**

This is the Attachment to the Proof of Claim of JWC/Loftus, LLC ("Loftus") for Lease Rejection Damages. In support of its claim, Loftus states as follows:

- The total amount of the claim is \$895,115.74.
- The amount of the rent for one-year is \$704,165.64. This is computed as 12 months' Base Rent at \$58,880.47 per month; plus the additional amounts for Common Area Maintenance (CAM) (12 mos. x \$2,636.84 = \$31,642.08); plus Real Estate Taxes (12 mos. total \$159,308.02).

TOTAL CLAIM:	\$ 704,165.64
	31,642.08
	<u>159,308.02</u>
	\$ 895,115.74

- The lease rejected was for the premises located at the 28th and Pearl Retail Center in Boulder, Colorado (Store No. 3348).
- The Lessee under the lease is Circuit City Stores West Coast, Inc. The lease is guaranteed by Circuit City Stores, Inc. Loftus asserts claims against both of these entities in their respective bankruptcy cases.
- This Proof of Claim covers only Loftus's claim for Lease Rejection Damages. This Proof of Claim does NOT waive, alter, amend or concern any other claims which Loftus has asserted, and/or may assert, in this matter, including claims for pre-petition and post-petition amounts, losses and damages, plus administrative claims.
- The lease of the premises was entered into in approximately November 1997. The lease is lengthy and will be provided upon request. The term of the lease was 20 years.

UNITED STATES BANKRUPTCY COURT <u>EASTERN</u> DISTRICT OF <u>VIRGINIA</u>		PROOF OF CLAIM
Name of Debtor: <u>Circuit City Stores West Coast, Inc..</u>		Case Number: <u>08-35654</u>
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): <u>JWC/Loftus, LLC</u>		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.
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1. Amount of Claim as of Date Case Filed: <u>\$ 895115.74</u>		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.
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<input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		<input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4).
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Value of Property: \$ _____ Annual Interest Rate %		 <i>*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</i>
Amount of arrearage and other charges as of time case filed included in secured claim if any: \$ _____ Basis for perfection: _____		
Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		
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If the documents are not available, please explain:		
Date: <u>4/29/2009</u>	Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.	
Philip C. Baxa, Attorney for Creditor		FOR COURT USE ONLY

Philip C. Baxa, Attorney for Creditor *← Signature*
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

IN RE: CIRCUIT CITY STORES, INC.
CASE NO. 08-35653

IN RE: CIRCUIT CITY STORES WEST COAST, INC.
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